

U. S. ARMY ENGINEER DISTRICT, SAN FRANCISCO  
CORPS OF ENGINEERS  
100 McALLISTER STREET  
SAN FRANCISCO, CALIFORNIA 94102

PUBLIC NOTICE NO. 70-35

TO WHOM IT MAY CONCERN:

26 June 1970

The Secretary of the Army has recently approved changes in the harbor line regulations. The new regulations make it clear that harbor lines are merely guidelines for determining, with respect to the impact on navigational interests alone, the offshore limits of construction. Persons wishing to undertake work in navigable waters shoreward of harbor lines are now required to apply to the Corps of Engineers for Department of the Army permits. The previous regulations allowed riparian owners to erect open pile structures or to undertake solid fill construction shoreward of established harbor lines without obtaining a permit. Attention is accordingly invited to the following amendment of the Code of Federal Regulations "Title 33, Navigation and Navigable Waters, Chapter II, Corps of Engineers, Department of the Army":

PART 209 -- ADMINISTRATIVE PROCEDURE

Harbor Lines

Pursuant to the provisions of sections 10 and 11 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403, 404), § 209.150 is hereby amended in its entirety effective upon publication in the Federal Register as follows:

§ 209.150 Harbor lines.

(a) Definition. The term "harbor line(s)" is used here in its generic sense. It includes types of harbor lines frequently referred to by other names, including, for example, pierhead lines and bulkhead lines.

(b) Policies, practices and procedures.

(1) Under previous policies, practices and procedures, riparian owners could erect open pile structures, or undertake solid fill construction shoreward of established harbor lines without obtaining a permit under 33 U.S.C. 403. This was a matter of great concern, particularly in cases involving long established harbor lines, since all factors affecting the public interest may not have been taken into account at the time the lines were established. Accordingly, under previous policies, practices and procedures there was the danger that work shoreward of existing harbor lines could be undertaken without appropriate consideration having been given to the impact which such work may have on the environment and without a judgment having been made as to whether or not the work was, on balance, in the public interest.

(2) In order to assure that the public interest will be considered and protected in all instances, all existing and future harbor lines are declared to be guidelines for defining, with respect to the impact on navigation interests alone, the offshore limits of open pile structures (pierhead lines) or fills (bulkhead lines). A permit under 33 U.S.C. 403 will be required in each case for any work which is commenced shoreward of existing or future harbor lines after the date of publication of this regulation in the Federal Register. Applications for permits for work in navigable waters shoreward of harbor lines shall be filed and processed in accordance with the provisions of applicable sections of this part. For work already completed or commenced in conformance with existing harbor line authority before that date, no permit is required.

(c) Establishment or modification of harbor lines. Applications for the establishment of new harbor lines or the modification of existing harbor lines will be processed in a manner similar to applications for permits for work in navigable waters. Public notices concerning any such application will be sent to all parties known or believed to be interested in the application and a copy of the notice will be posted in post offices or other public places in the area. Public notices, apart from providing information relative to any harbor line application, shall make it clear that harbor lines are guidelines for defining, with respect to the impact on navigation interests alone, the offshore limits of open pile structures or fills and that the establishment of a harbor line carries with it no presumption that individual applications for permits to undertake work shoreward of any harbor line will be granted. Public hearings will be held in connection with applications for the establishment or modification of harbor lines whenever there appears to be sufficient public interest to justify the holding of a public hearing or when responsible Federal, State or local authorities, including Members of the Congress, request that a hearing be held and it is likely that information will be presented at the hearing that will be of assistance in determining whether the harbor line should be established or modified. District Engineers will forward all recommendations concerning the establishment or modification of harbor lines through the appropriate Division Engineer to the Chief of Engineers, ENGCBW-ON. No new harbor lines will be established and no existing harbor lines will be modified unless specifically authorized by the Chief of Engineers.

For the Adjutant General.

Richard B. Belnap  
Special Advisor to TAG.

The change of regulations was effective on 27 May 1970, the date the above excerpt was published in the Federal Register. Notices to this effect will be posted at post offices and other public places and are being sent to all known interested parties.

JOHN H. KERN  
LTC, CE  
Acting District Engineer



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers  
WASHINGTON, D.C. 20314

6 JUN 1983

REPLY TO  
ATTENTION OF:

DAEN-CWO-N

SUBJECT: Change and/or Relocation of U. S. Pierhead Lines

Commander, South Pacific Division

1. By regulation on 27 May 1970 all harbor lines were relegated to guidelines which serve as guidance for assessing navigation impacts (see 33 CFR 320.2(c) and 320.4(o)). There are, therefore, no harbor lines presently established for purposes of Sections 10 and 11 of the River and Harbor Act of 1899.

2. The Section 11 harbor lines were prohibitive in nature and required the approval of the Secretary of the Army. All existing harbor lines are guidelines for use by district engineers in assessing navigational impacts. As such, district engineers may establish, modify or delete these harbor lines at their discretion. Pierhead lines are to be treated the same as harbor lines.

FOR THE COMMANDER:

C. E. EDGAR III  
Brigadier General, USA  
Deputy Director of Civil Works